



IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

ALLURE ENERGY, INC.,

Plaintiff,

v.

NEST LABS, INC., et al.,

Defendants.

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CIVIL ACTION No. 9-13-CV-102

JUDGE RON CLARK

SCHEDULING ORDER

The court, after considering the joint attorney conference report and after reviewing the case file, enters this case specific order, which controls disposition of this action pending further order of the court. The following actions shall be completed by the date indicated.¹

April 10, 2014	P.R. 3-1 Disclosure of Asserted Claims and Infringement Contentions to be served.
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April 17, 2014	Deadline to add parties.
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April 21, 2014	P.R. 3-2 Document Production to be served.
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May 1, 2014	Defendants to provide a summary of united and dollars of sales of accused products on a quarterly or annual basis.
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May 8, 2014	Rule 26(a)(1) Disclosures.
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¹ If a deadline falls on a Saturday, Sunday, or legal holiday as defined in Fed. R. Civ. P. 6, the effective date is the first federal court business day following the deadline imposed.

May 22, 2014	Exchange Email Custodians.
May 22, 2014	P.R. 3-3 Invalidity Contentions (and P.R. 3-4 document production) to be served. To extend not already required to be disclosed, exchange Mandatory Disclosures other than information directed solely towards damages.
June 2, 2014	Privilege Logs to be exchanged by parties (or a letter to the court stating that there are no disputes as to claims of privileged documents).
June 6, 2014	Parties to exchange proposed terms for construction and identify any claim element governed by 35 U.S.C. § 112, ¶ 6 (P.R. 4-1).
June 12, 2014	Exchange email discovery requests other than those related to damages.
June 12, 2014	Deadline to amend pleading without leave of the court, except for any claim on inequitable conduct, which shall be October 9, 2014. An amended that adds a new patent in suit will need leave of the court.
June 24, 2014	Parties to exchange preliminary proposed claim construction and extrinsic evidence supporting same (P.R. 4-2).
July 10, 2014	Response to amended pleadings.
July 18, 2014	Joint Claim Construction and Prehearing Statement to be filed (P.R. 4-3). Provide an estimate of how many pages are needed to brief the disputed claims.
July 24, 2014	Party asserting infringement shall serve a Preliminary Election of Asserted Claims, which shall assert no more than ten claims from each patent and not more than a total of 32 claims.
July 31, 2014	Party against whom infringement is alleged shall serve a Preliminary Election of Asserted Prior Art, which shall assert no more than twelve prior art references against each patent and not more than a total of 40 references.
August 20, 2014	Completion date for discovery on claim construction (P.R. 4-4).

August 22, 2014	Opening claim construction brief (P.R.4-5(a)).
September 26, 2014	Responsive claim construction brief (P.R. 4-5(b)).
October 10, 2014	Reply claim construction brief (P.R. 4-5(c)).
October 21, 2014	Submit technology synopsis (both hard copy and disk).
October 21, 2014	Parties to file joint claim construction and chart (P.R. 4-5(d)). Parties shall work together to agree on as many claim terms as possible.
October 31, 2014	Possible tutorial.
November 4, 2014	Claim construction hearing at 10:00 am, in Beaumont, Texas.
December 10, 2014	Provide Initial Mandatory Disclosures of information directed solely to damages. Deadline for Initial Mandatory Disclosure of all persons, documents, data compilations, and tangible things, which are relevant to a claim or defense of any party and which has not previously been disclosed. This deadline is not an extension of earlier deadlines set out in this court's order or that Patent Rules, nor an excuse to delay disclosure of information. It is a catchall deadline for provision of all remaining information that may be relevant to a claim or defense of any party at trial.
December 18, 2014	Comply with P.R. 3-7 on designation of willfulness opinions.
January 22, 2015	Parties with burden of proof to designate Expert Witnesses other than claims construction experts and provide their expert witness reports, to include for ALL experts all information set out in Rule 26(2)(B).
January 22, 2015	Party against whom patent infringement is asserted shall serve a Final Election of Asserted Prior Art, which shall identify no more than six asserted prior art references per patent from among the twelve prior art references previously identified for that particular patent and no more than a total of 20 references. For purposes of this Final Election of Asserted Prior Art, each obviousness combination counts as a separate prior art reference.

February 12, 2015

Parties designate expert witnesses on issues for which the parties do not bear the burden of proof, and provide their expert witness report, to include for ALL experts all information set out in Rule 26(2)(B).

Objections to any expert, including Daubert motions, shall be filed within 3 weeks of the Expert Report disclosure. Such objections and motions are limited to ten pages.

February 26, 2015

Discovery deadline. All discovery must be served in time to be completed by this date.

February 26, 2015

Deadline to file dispositive motions and any other motions that may require a hearing. Regardless of how many dispositive motions a party files, each party is limited to a total of sixty pages for such motions. Each individual motion shall comply with Local Rules CV-7.

Responses to motions shall be due in accordance with Local Rule CV-7(e).

April 23, 2015

Notice of intent to offer certified records.

April 23, 2015

Counsel and unrepresented parties are each responsible for contacting opposing counsel and unrepresented parties to determine how they will prepare the Joint Final Pretrial Order (see Local Rule CV-16(b) and Proposed Jury Instructions and Verdict Form (or Proposed Findings of Fact and Conclusions of Law in nonjury cases)).

April 30, 2015

Video Deposition Designations due. Each party who proposes to offer a deposition by video shall serve on all other parties a disclosure identifying the line and page numbers to be offered. All other parties will have seven calendar days to serve a response with any objections and requesting cross examination line and page numbers to be included. Counsel must consult on any objections and only those that cannot be resolved shall be presented to the court. The party who filed the initial Video Deposition Designation is responsible for preparation of the final edited video in accordance with all parties' designations and the court's rulings on objections.

May 7, 2015

Motions in limine due.

File Joint Final Pretrial Order (see Local Rules Appendix D (obtain form for Exhibit List from District Clerk's Office, or create an Exhibit List form that mirrors the District Clerk's form)). Exchange Exhibits and deliver copies to the court. At this date, all that is required to be submitted to the court is a hyperlinked exhibit list on disk (2 copies) and no hard copies.

May 14, 2015

Responses to motions in limine due

File objections to witnesses, depositions extracts, and exhibits, listed in pre-trial order. This does not extend the deadline to object to expert witnesses. If numerous objections are filed the court may set a hearing prior to docket call.

File Proposed Jury Instructions and Form of Verdict (or Proposed Findings of Fact and Conclusions of Law).

May 28, 2015

Final Pretrial at 1:30 pm, in Lufkin, Texas, via video.

The parties should be prepared to try the case on this date. Provide the court with two copies of the most updated Exhibit List. Absent agreement of the parties, this should not have exhibits that were not listed in the Final Pretrial Order, but may be some deletions depending on rulings on objections. At this date, the parties should be prepared to give the Deputy Clerk one hard copy of the exhibits.

June 1, 2015

Jury selections and trial at 10:30 am, in Lufkin, Texas.

So **ORDERED** and **SIGNED** this **7** day of **April, 2014**.



Ron Clark, United States District Judge